

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

JOHN D. WEST, on Behalf of	:	
Himself and All Other Persons	:	
Similarly Situated	:	
	:	
Plaintiff,	:	
	:	
vs.	:	Case 1:02-cv-0001
	:	
AK STEEL CORPORATION	:	
RETIREMENT ACCUMULATION PENSION	:	
PLAN, et al.	:	
	:	
Defendant.	:	

ORDER

On February 3, 2006, Defendants asked the Court to defer this Court's consideration of Plaintiff's requests for attorneys fees and costs (Doc. 135). Pursuant to the parties' joint motion (Doc. 136), the Court stayed briefing on the fee petitions pending the filing of Plaintiff's response to the motion to defer consideration of attorney's fees (Doc. 137).

Plaintiff's response (Doc. 138) essentially concurs in Defendants' request to postpone consideration of the fee applications until the conclusion of the anticipated appeal of the Court's judgment on the merits of Plaintiff's claim. Rather than staying briefing on the issue, Plaintiff asks that the Court deny his two fee petitions (Docs. 131 and 132), otherwise than on the merits and without prejudice to refiling after appeal.

The Advisory Committee Notes to Fed. R. Civ. P. 54(d)(2) state that the district court may defer ruling on fee petitions

until after an appeal on the merits, or may deny the motion without prejudice and permit re-filing after the appeal has been resolved. The Court finds that judicial economy would be fostered by reserving ruling on Plaintiff's fee petitions until the appeal on the merits is concluded. The Court also finds that a denial without prejudice, rather than a stay of briefing, will be the most efficient method to achieve that end.

Accordingly, Plaintiff's motion for statutory attorney's fees and costs (Doc. 131) and Plaintiff's motion for approval of reasonable compensation and reimbursements (Doc. 132) are both denied, otherwise than on the merits and without prejudice to renewing and refiling within twenty-eight (28) days of the issuance of the mandate by the Court of Appeals.

DATED: February 21, 2006

s/Sandra S. Beckwith
Sandra S. Beckwith, Chief Judge
United States District Court